



Publisher of Consumer Reports



Consumer Federation of America

The Honorable Michael Powell, Chairman
Federal Communications Commission
445 12th St. SW
Washington DC 20554

May 3, 2001

Subject: Wireless Spectrum Caps, FCC Docket No. 01-14

Dear Chairman Powell:

We are writing¹ to urge you not to lift the 45 MHz spectrum cap for wireless services. The Commission's 45 MHz wireless cap has facilitated a vigorously competitive market for wireless services; consumers have benefited enormously from this policy, which has produced declining rates and increased choice in services. To raise or eliminate the cap is to virtually mandate consolidation in this market. We fear that consumers will pay for this consolidation in the form of higher monthly bills and less choice.

The current 45 MHz cap ensures that at least four carriers will remain in the market. Commenters who argue that the cap is no longer necessary because the wireless market is competitive miss the obvious point that the market is competitive precisely because the FCC's spectrum cap has ensured that a certain number of players remain in the game.

Our hope is that wireless services could someday serve as an effective substitute for wireline telephone services, giving consumers greater choice through a competitive, price-disciplining alternative to local phone monopolies. However, wireless services are not yet a substitute for several reasons. First, the cost of wireless plans for the average consumer² is generally three to four times the cost of standard local phone plans and the basic monthly charge for service is at least 50% higher than local exchange service.³ Second, most wireless plans have measured billing rather than flat rate

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The Consumer Federation of America is the nation's largest consumer advocacy group, composed of over 280 state and local affiliates representing consumer, senior, citizen, low-income, labor, farm, public power and cooperative organizations, with more than 50 million individual members.

² The average consumer spends \$30/month for the service and uses 1400 minutes of outgoing calls. Note that this does not include charges for incoming calls, extension phones, or a second line. Cooper and Kimmelman, *The Digital Divide Confronts the Telecommunications Act of 1996: Economic Reality v. Public Policy* at 38 (February 1999).

³ *Id.* at 37.

service. While there are exceptions to this—such as the “Cricket” service offered by Leap Wireless—flat rate billing is the exception. Third, wireless plans charge for both outgoing and incoming calls, which is never the case with wireline service. The final reason we have seen that wireless services are not yet a substitute for wireline services is that the quality of service with wireless products is not what consumers have come to expect from their local phone companies. Dropped call rates on wireless systems are relatively high, which is costly for customers who pay for calls on a measured basis and there is no discount given for such dropped calls.

Raising the spectrum cap would make it more difficult for smaller players to begin trying to compete against wireline service providers and remain competitive, eliminating at least some of the product and pricing diversity in the current marketplace. By allowing the largest companies—many of whom own regional wireline monopolies—to grow even larger, we are fearful that they would use a higher or completely lifted spectrum cap as an opportunity to lock up spectrum and keep at bay those who would compete with their wireline businesses.

Furthermore, in an era of spectrum scarcity, lifting the cap reinforces spectrum inefficiency and sends the wrong signals to the marketplace. Rather than encouraging the current players in the wireless market to use their spectrum resources efficiently by moving towards smarter, higher-capacity infrastructures, lifting the cap would allow carriers (who would otherwise have been signaled to be better stewards of their spectrum) to grow with anachronistic, wasteful systems.

It is important to note that the cap does nothing to limit the number of subscribers that can be on a particular carrier’s network; it is a carefully crafted bright-line rule which permits network operators to grow by using their systems in a more efficient manner. Network owners always have the option to grow subscribership by switching to an all-digital network and using digital compression to boost service capacity by several orders of magnitude.

Finally, contrary to what certain commenters contend, lifting the spectrum cap will do little to facilitate the roll out of 3G services. The largest wireless carriers are extremely good at offering voice services, but have not yet shown expertise in providing data services. These carriers offer no technical models that demonstrate plans for how they will use any spectrum increase to offer 3G services. Indeed, if the goal is to facilitate the rollout of 3G services, it seems ironic that the FCC would allow the companies with the weakest incentives to innovate and compete against wireline services to grow, rather than leave the cap in place and allow an opening for innovators in wireless data to step in and offer new services.

Given that the spectrum cap has been an extremely effective means of facilitating a competitive marketplace, bringing consumers decreasing rates and increased choices, we urge you to leave the current cap undisturbed.

Sincerely,



Gene Kimmelman
Co-Director, Washington Office
Consumers Union

Mark Cooper
Dr. Mark Cooper
Research Director
Consumer Federation of America